



**HM Railway Inspectorate
& Safety Policy Directorate**

**Rail Guidance Document
RGD-2007-12**

HMRI COMPLAINTS PROCEDURE FOR AREA TEAMS

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| Open Government Status | | Fully Open | |
| Date of issue/last review | November 2007 | Date of next review | 31 March 2008 |
| RGD postholder/owner | | Trevor Kent, Complaints Process Owner | |
| National Team (where appropriate) | | | |
| RGD cleared by | | Steven Bliss, GM2 | |
| RGD type | | Policy_____ <input type="checkbox"/> Information_____ <input type="checkbox"/> Procedure_____ <input checked="" type="checkbox"/> | |
| Target audience | | HMRI_____ <input checked="" type="checkbox"/> Policy_____ <input type="checkbox"/> Inspectors_____ <input checked="" type="checkbox"/> Admin_____ <input checked="" type="checkbox"/> | |
| Assign to block | | Process/New Legislation_____ <input checked="" type="checkbox"/> Topic/Technical_____ <input type="checkbox"/> Stakeholder Management_____ <input type="checkbox"/> Legal_____ <input type="checkbox"/> Business Support/Transition__ <input checked="" type="checkbox"/> | |
| Keywords | Complaint | COIN | Follow Up |
| | Complaints Officer | | Dutyholder |
| | | | Band 2 |
| Summary | This Rail Guidance Document (RGD) sets out the procedures for following up health and safety complaints within HMRI area teams. The guidance covers steps that should be taken by staff from receipt through to close-out and also includes information on how to handle complaints that are for other enforcing authorities to follow up. | | |
| Consultation | | | |

INTRODUCTION

1. The purpose of this Rail Guidance Document (RGD) is for staff in the Area Teams to gain understanding of the procedure in place for handling complaints from receipt to close-out. It does not include issues raised while on an inspection as these should be taken forward as part of the inspection follow-up.
2. This document supports the training delivered by Trevor Kent, Complaints Process Owner to area team admin staff on how to handle complaints. This RGD is aimed mainly at admin staff although inspectors need to be aware of the procedure.

DEFINITION OF A COMPLAINT

3. A definition of a complaint is described as:

A concern, originating from outside HMRI, in relation to a work activity for which HMRI is the enforcing authority, that is sufficiently specific to enable identification of the issue and the dutyholder and/or location and that either:

- has caused or has potential to cause harm, or alleges the denial of basic employee welfare facilities, or
- appears to constitute a breach of law for which HMRI is the enforcing authority.

RECEIPT OF CONCERN

4. A complaint could arrive by e-mail, telephone or post, and occasionally from the Customer Correspondence Team in Kemble Street. Upon receipt, complaints officers must decide if the complaint is for HMRI to deal with or by a different enforcing authority. The Memorandum of Understanding (MoU) between Health & Safety Executive and ORR should be consulted as should the Health & Safety (Enforcing for Railways and Other Guided Transport Systems) Regulations 2006 (EARR 06). To establish demarcation with local authorities, reference should be made to Health & Safety (Enforcing Authority) regulations 1998, available at www.opsi.gov.uk/si/si1998/19980494.htm. Complaints relating to an area team other than their own should be forwarded urgently by the complaints officer.

5. Where the concern meets HMRI's definition of a complaint, the complaints officer must:
 - obtain full details of the complaint and, where possible, the complainant (see Annex 1 for Notification form);
 - inform the complainant that they will be provided with either a brief explanation of the outcome of any HMRI action, or, for a minority of

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- cases, the reasons why HMRI has not taken any action;
 - where necessary, refer a complaint from an abusive or aggressive complainant to a more senior member of staff;
 - refer working time complaints to the working time team for action (see [RGD-2004-16 Handling Of Rail Enquiries and Complaints Under The Working Time Regulations 1998 \(as amended\)](#))).
6. Where a complaint does not meet HMRI's definition of a complaint, the complaints officer must:
- provide the complainant (where contact details are given) with reasons why the concern raised cannot be dealt with as a complaint; and
 - where possible, refer the complainant to any other authority or organisation that might be able to help.

FOLLOW UP OF A COMPLAINT

7. The complaints officer should record the complaint on COIN and refer the case to the Band 2 Area Team Manager if the following applies:
- the complainant cannot be disclosed and involves a vulnerable person. A vulnerable person is defined as:
 - an employee who may be easily identified and whose identification may endanger their future employment;
 - a member of the public where they are at risk / affected by work activity;
 - a person whose property borders the dutyholder's premises;
 - there is an ongoing issue, for example, formal enforcement action is underway, or a previous history similar to the complaint;
 - there are insufficient details to identify the dutyholder;
 - the complaint does not meet HMRI's policy on follow up / investigation; or
 - the complainant is a known serial complainer.

For further guidance on the categories of complaints that need to be referred to Band 2 Area Team Managers, please see Annex 2. The Band 2 may decide to refer the complaint back to the complaints officer for follow-up action. Follow-up will then be as paragraph 8 below.

8. Where referral to the Band 2 is not required, the complaints officer should contact the dutyholder concerned by e-mail, letter or telephone, requesting an explanation of events and any plans in place for resolving the issue. Final responses from the dutyholder must be in written form, by e-mail or by letter.

9. Inspectors/RICOs should follow up any complaints assigned to them by following the HMRI investigations guide.

RESPONSE FROM DUTYHOLDER

10. An initial response should be received from the dutyholder within three weeks. If there is no response within this timescale, the complaints officer should contact the dutyholder again to find out how the complaint is progressing. If the dutyholder fails to respond after this initial follow-up, then the Band 2 should be consulted to decide on a course of action.

11. Once a response is received from the dutyholder, the complaints officer should review the response to ensure that all issues raised have been addressed. When all issues have been sufficiently addressed and closed-out, a response should be drafted by the complaints officer and sent to the complainant with an explanation of the action the dutyholder has taken to resolve the issue.

12. If the response received from the dutyholder does not address the issues raised or they are unable to supply information, the Band 2 should be consulted to establish the best way forward. The Band 2 will decide whether the complaints officer should continue to pursue the complaint with the dutyholder, or if it should be referred to a Band 3 to take forward.

13. Alternatively, the Band 2 may decide not to pursue the complaint further and ask the complaints officer to draft a response to go to the complainant, stating the reasons why we are choosing not to investigate any further.

14. Once the response has been agreed and sent to the complainant, the case should be closed on COIN.

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Action (optional)

Complaints officers should handle complaints in accordance with the procedure set out in this RGD, and per the training delivered by Trevor Kent, the Complaints Process Owner.

Inspectors / RICOs should handle complaints in accordance with both this RGD and the HMRI investigations guide.

Line Managers should:

- ensure staff receive the appropriate training and are competent in their role;
- support and guide their staff as necessary;
- ensure staff achieve performance standards stated in this procedure; and
- undertake monitoring as required by this procedure.

All staff should ensure that they update progress of the complaint on COIN. This includes recording any contact with dutyholder, complainant or ORR staff.

Complaints officers must keep the relevant account holder informed of any actions they are pursuing with the dutyholders.

Complaints officers must also work to the following performance standards.

- Within one working day of receipt of a complaint, decide if HMRI is the correct enforcing authority. This should be immediate if there is an obvious risk of serious personal injury.
- Send an acknowledgement to the complainant to advise that the complaint is being dealt with and that a formal response will be sent in due course. Alternatively, explain why the complaint is not being followed up.
- Within one working day of receipt of a complaint, ensure the Band 2 is made aware of the complaint (for those being referred to Band 2 for decision). This should be immediate where there is an obvious risk of serious personal injury.
- Within three working days of receipt of a complaint, contact the dutyholder concerned. This should be immediate where there is an obvious risk of serious personal injury.
- For an unresolved complaint, ensure the Band 2 is made aware within three working days of receipt of the dutyholder's response. This should be immediate where there is an obvious risk of serious personal injury.
- Review any significant information which could affect the course of action to be taken.

COMPLAINT NOTIFICATION FORM

Case No:.....

Complaint received by:.....Date:/...../.....

Area Field Team:..... Notifier Name:.....

Notifier Status:.....

Notifier Address: Incident Date:...../...../.....

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.....Post Code:.....
Email:.....Telephone:.....

Complaint details: (train time if appropriate)

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Incident Location/address:

Or road name etc for level crossings, or alternative name

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Represented by TU?: Y / N Referred to TU?: Y / N

Referred to duty holder?: Y / N Disclosable?: Y / N

Anonymity requested?: Y / N Associated paperwork Y / N

IP Name:..... FP Name:.....

Area Team:.....

Organisation Address:

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Post code..... Telephone:.....

| <u>Scenario</u> | <u>Band 2</u> | <u>Band 6</u> |
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| Construction | | Complaints officer to seek initial information from complainant. Any work that may import a risk on to the railway will fall under HMRI's remit to investigate. |
| Escalators | | Complaints officer to deal with initially. Establish whether there is any previous history at the given location. If previous history or concerns treat as paragraph 7 of complaints procedure and refer to Band 2 for allocation/decision. |
| Fencing issues (new concern) | | If no record of fencing concerns available on COIN, complaints officer to deal with. To contact by phone and/or letter/email local Network Rail office, informing Band 2 and RICO. |
| Fencing issues | If complaint relates to fencing concerns in known hotspot areas. To be referred to Band 2 immediately for referral to RICO. | Actions - refer to Band 2 immediately, following input onto COIN. |
| Heritage railways | Band 2 referral, following input onto COIN | |
| Level crossing | Refer to Band 2 | Following input onto system, please refer to Band 2 for allocation/delegation. |
| Lineside debris | Refer to Band 2, for referral to RICO. | |
| MoPs on stations | | Complaints officer to deal with. Please ask/check for any previous history. If previous history or concerns treat as paragraph 7 of the complaints procedure, for immediate referral to Band 2. |
| Possession working/ Related incidents | Band 2 referral, following input onto COIN | |
| Workplace environment | | Complaints officer to deal with. |
| Complaint with national implications | To be referred to Band 2 for action/ allocation | |